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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/576,094 05/22/00 GALIN

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BAKER & BOTTS  
30 ROCKEFELLER PLAZA  
NEW YORK NY 10112

QM12/0913

EXAMINER

CHATTOPADHYAY, JI

ART UNIT PAPER NUMBER

4

3738

DATE MAILED:

09/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**

Application No.

09/576,094

Applicant(s)

GALIN, MILES A.

Examiner

Urmi Chattopadhyay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 May 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the positive refracting lens having a convex surface and a planar surface (claim 4) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract is objected to because the word "invention" on lines 1 and 6 is legal phraseology that needs to be removed. As stated above, the phrase "the disclosure" should also be avoided.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1, 4, 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Peyman et al. (USPN 6,277,146).

Peyman et al. discloses an intraocular lens with all the limitations of claim 1. See column 10 and 11, lines 54-12 for a positive power anterior chamber ocular implant for a phakic eye. See Figure 29 for refracting lens having at least one convex surface and Figure 30 for contact between the lens and other anatomic bodies being avoided.

Claim 4, see column 4, lines 30-31 and 39-44 for positive refracting lens having convex and planar surfaces.

Claim 8, see column 4, lines 32-44 for lens being made from polymethylmethacrylate.

Claim 9, it is inherent that a lens made of silicone (column 35-36) is foldable.

Claim 10, it is inherent that a lens made of polymethylmethacrylate is rigid.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peyman et al. in view of Kelman (USPN 4,871,363).

Peyman et al. discloses an intraocular lens with all the limitations of claim 1, but is silent to the additional limitation of the haptics each having an "S" configuration having a four point attachment with an intermediate beam length of 5.25mm, as required by claims 5 and 12.

Kelman teaches a corrective anterior chamber intraocular lens for use in a phakic eye with "S" configured haptics with four point attachments in order to engage adjacent portions of the eye tissue when inserted for implantation. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to look to the teachings of Kelman to modify the intraocular lens of Peyman et al. to include "S" shaped haptics with four point attachments in order to engage adjacent portions of the eye tissue when inserted for implantation. Kelman does not specifically state that the intermediate beam length be 5.25mm (column 7, lines 11-23), however, a clear criticality of this value is absent in being shown. It would have been obvious to one of ordinary skill in the art to modify the beam length to fit the size and shape of the individual patient. Keyman also teaches the limitation that the haptics are normal to the peripheral edge of the lens by extending radially outwardly from the peripheral edge, as required by claim 11, in order to prevent excessive rotation of the lens. See column 6, lines 36-44. It would have been obvious to modify the intraocular lens of Peyman et al. to have the haptics normal to the peripheral edge in order to prevent excessive rotation of the lens.

7. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peyman et al. in view of Li (USPN 6,132,462).

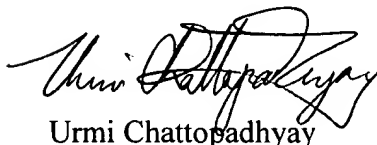
Peyman et al. discloses an intraocular lens with all the limitations of claim 1, but is silent to the additional limitation of the implant being coated with a specific sulfated polysaccharide

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medicament, as required by claims 6 and 7. Li teaches a copolymer intraocular lens coated with heparin in order to raise biocompatibility and prevent from deposition of cells. See column 6, lines 19-29. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to look to the teachings of Kelman to modify the intraocular lens of Peyman et al. have the specific coating in order to raise biocompatibility and prevent from deposition of cells.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Urmi Chattopadhyay whose telephone number is (703) 308-8510. The examiner's supervisor, Corrine McDermott, may be reached at (703) 308-2111. The group receptionist may be reached at (703) 308-0858.

Should the applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 305-3590. Should applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.



Urmi Chattopadhyay

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**David J. Isabella**  
**Primary Examiner**

uc

September 7, 2001